

**REPORT OF THE ATTORNEY GENERAL CONCERNING  
THE USE OF DEADLY FORCE  
BY STATE POLICE TROOPER PHILLIP GAISER  
AND SPRINGFIELD POLICE CHIEF TIMOTHY JULIAN  
ON SATURDAY, JULY 26, 2008, IN CHARLESTOWN, NEW  
HAMPSHIRE**

**I. INTRODUCTION**

On Saturday, July 26, 2008, at approximately 7:25 p.m., members of the Western New Hampshire Special Operations Unit (SOU), along with members of the Claremont and Charlestown Police Departments, the New Hampshire State Police, Sullivan County Attorney Marc Hathaway and Assistant Sullivan County Attorney John Bell went to 60 Summer Street in Charlestown to execute arrest warrants for Jesse Jarvis and Desiree Wright. The Chief of the Charlestown Police Department, Edward Smith, was consulted and gave his consent for the SOU to undertake this operation in the town. Jesse Jarvis was wanted for burglary, receiving stolen property, criminal mischief, resisting arrest or detention, and receiving stolen property. In addition, he was wanted for a parole violation. Desiree Wright was wanted for forgery. The police had a search warrant to search for Jesse Jarvis and Desiree Wright in all of the buildings and vehicles located at 60 Summer Street, which included a house, barn, horse trailer and camper. Anthony Jarvis, father of Jesse Jarvis, was known to reside in the camper.

Based on previous encounters with Jesse Jarvis, the police suspected that Jarvis was likely to flee and could be armed, violent, or both, which was the reason that the SOU was mobilized. When the police got to the Summer Street address, they learned from the owner of the house that there were weapons in the house. However, the owner was unsure if Jesse Jarvis knew about the weapons, or if there was ammunition in the house.

Upon arriving at 60 Summer Street, members of the SOU worked to secure the scene, by removing people from the property and locating officers on the perimeter. The officers determined that the camper was occupied and directed the occupants to exit the camper. One individual, Daniel Allain [age 26], exited the camper and was taken into custody. The other occupant, Anthony Jarvis, remained inside. Claremont Sergeant Stan Andrewski stood outside the camper, along with New Hampshire State Police Trooper Alex Lee, who had his service dog. Lee announced several times, "State Police canine. Come out now or I will send in the dog." Andrewski attempted to persuade Anthony Jarvis to leave the camper, explaining that they had a search warrant. However, Jarvis refused to comply. He was screaming things such as I didn't do anything wrong, you are not going to take me alive, I'm not going without a fight, I'm not going back to prison, and if you send the dog in, I'm going to kill it. Andrewski thought that Jarvis was either drunk or on drugs because his conduct went through quick changes of being enraged, calm, and unresponsive.

Almost immediately upon their arrival, the police located Desiree Wright and took her into custody. Officers then attempted to locate Jesse Jarvis and determined that he was in a room on the second floor of the house. Jesse Jarvis subsequently surrendered and was taken into custody without incident.

The police then focused their attention on Anthony Jarvis, who continued to refuse to come out of the camper. County Attorney Hathaway and a few of the police officers who were present learned from Desiree Wright, following her arrest, that there was a gun in the camper. County Attorney Hathaway also knew that Anthony Jarvis was a convicted felon and that he had been convicted for being a felon in possession of a dangerous weapon. As discussed below, there are differing accounts about whether the information about the gun was communicated to Springfield Police Chief Timothy Julian, the commander of the SOU, or Trooper Phillip Gaiser.

Julian decided that an SOU member would throw a diversionary device commonly known as a “flashbang”, a non-lethal device used for distraction purposes, into the camper. Thereafter, Gaiser would enter the camper with his Taser, a non-lethal weapon that uses an electrical shock to temporarily disable a person resisting arrest.

After the diversionary device was deployed, Gaiser entered the camper with his Taser drawn. Julian was close behind, outside the doorway. Immediately upon entering, Gaiser saw a muzzle flash and felt a bullet pass close by his head. Gaiser fired his Taser and, at the same moment, was fired on again by Anthony Jarvis. A bullet struck Trooper Gaiser in the upper right thigh and he fell to the floor. Gaiser was subsequently hit in the finger and right leg by additional gunfire as he was attempting to gain cover. Gaiser then positioned his body in a corner of the camper in an attempt to take cover from Anthony Jarvis’s repeated gunfire. Once he realized that he had been shot and that the shooting continued, Trooper Gaiser took out his firearm (.45 caliber, semi-automatic) and returned fire. A large number of shots were exchanged between the men. Anthony Jarvis fired between 8 and 16 shots at the trooper. Gaiser fired his firearm 16 times.

During the encounter, Gaiser yelled that he had been shot. Upon hearing that, Julian entered the camper and fired at least three shots from his weapon (.223 caliber semi-automatic rifle) in the direction of Anthony Jarvis, who was positioned at the rear of the camper. When Gaiser heard the gunfire stop, he holstered his weapon. Andrews removed Gaiser, who was incapacitated, from the camper. All of the shots fired were from within the camper. No officers outside of the camper fired their weapons and no one else was injured during this event.

Once the officers determined that it was safe to re-enter the camper, they did so and determined that Anthony Jarvis was dead. At Jarvis’s feet was a 9mm Ruger with an attached laser. The Ruger was locked back and the laser sighting system was activated. The police also found four fully loaded magazines for the Ruger near Mr. Jarvis’s body. Investigators interviewed Desiree Wright following the shooting. She said that she had

been in the camper the previous night and saw a 9mm pistol between Anthony Jarvis's legs.

An autopsy performed by Deputy Chief Medical Examiner Jennie V. Duval, M.D., determined that Anthony Jarvis was shot and killed by bullets, later determined by the State Forensic Laboratory to have been from a .45 caliber gun. Toxicology results revealed that, at the time of death, Anthony Jarvis had a blood alcohol concentration of .324. There were a total of 15 gunshot wounds on Anthony Jarvis's body, including graze wounds and superficial injuries. Anthony Jarvis sustained 2 fatal wounds to his trunk.

Investigators determined that Gaiser's injuries were consistent with those from a 9mm weapon. Investigators retrieved a 9mm bullet from a compartment area in the camper, immediately behind where Gaiser was standing when he entered the camper, and above where his head would have been.

## **II. WITNESS STATEMENTS**

State Police Major Crime investigators conducted a thorough investigation of this incident that included extensive interviews with police and civilian witnesses. Those interviews were, for the most part, audio recorded and transcribed. The following is a synopsis of the witnesses' statements:

### ***A. POLICE AND LAW ENFORCEMENT WITNESSES***

#### **Springfield Police Chief Timothy Julian**

Julian was the commander of the SOU. Although he had been part of the SOU for three years, and had participated in approximately twenty SOU operations, this was his first time in the role of commander. Chief Julian was interviewed two times in relation to this incident: on July 27, 2008, and again on August 6, 2008.

Julian received a page during the afternoon of July 26, 2008, for the SOU to be on stand-by status. After being paged, he gathered his gear and headed to the Claremont Police Department. When he arrived there, he was met by Claremont Police detectives, County Attorney Hathaway, Assistant County Attorney Bell and four other members of the SOU team. They informed him that they were preparing a warrant for Jesse Jarvis. It appeared to Julian that County Attorney Hathaway was in charge of the operation and was making the crucial decisions.

Julian was concerned about the small number of tactical team members who responded; only five responded. Julian felt a more sufficient number should have been ten or twelve. He was concerned that they lacked a tactical officer, as well as an officer trained in the use of gas or in the use of a non-lethal Taser. When he expressed his concerns to Hathaway, he was told that they could use non-SOU officers from Claremont and Charlestown and was assured by Hathaway that this was a simple operation.

Hathaway seemed anxious to finish the tactical operation before sundown. Julian did not feel that he had the authority to challenge the County Attorney's decision in that regard and did not do so. At that point, Julian felt he was taking his orders from Hathaway, who, as County Attorney, he thought had the authority to direct the tactical operations of the SOU.

At the Claremont Police Department, Julian participated in a lengthy discussion about whether to proceed with the operation, given that Claremont Police detectives were receiving information on Jesse Jarvis from a confidential informant [CI]. Claremont Police Chief Alexander Scott put a hold on the operation out of concern for the safety of the CI, until he was assured that the CI was comfortable with the operation proceeding. They further discussed the layout of the residence at 60 Summer Street in Charlestown, that Jesse Jarvis was expected to be located on the second floor of the main residence and that his father, Anthony Jarvis, would likely be inside a camper on the property. Julian learned that Jesse Jarvis might have a handgun but nothing was said to him about Anthony Jarvis being armed. He was told only that Anthony Jarvis was not "cop friendly."

Julian was never shown a copy of the search warrant. He was not told what that warrant covered. He did not know what they were searching for. He assumed the warrant authorized a search of the entire property and all the building and vehicles located on that property. He assumed that warrant included searching for Jesse Jarvis and his girlfriend, Desiree Wright, and possibly also the gun that Jesse was suspected of possessing. County Attorney Hathaway told him that they had authority to arrest any person who interfered with the execution of the search warrant.

Julian understood the role of the SOU to be that of providing security so that Claremont Police detectives could execute the search warrant. Once at the scene, Julian sent one team to deal with the main residence and another to the camper. Shortly after arriving on scene, Jesse Jarvis came out of the main residence and was taken into custody without incident. Julian did not see Jesse taken into custody but was informed of this fact by other officers. Julian also saw a man come out of the camper, later identified as Daniel Allain. He heard Sergeant Stan Andrews of the Claremont Police and Trooper Alex Lee having conversations with Anthony Jarvis, who refused to come out of the camper. He heard Lee telling Anthony Jarvis that he would send in his dog, and then heard Jarvis respond in angry, loud tones that he did not want to hurt the dog. He also heard Anthony Jarvis yell that he [Jarvis] was not the person the police were looking for and was not at fault. According to Julian, Jarvis did not sound impaired or intoxicated.

Although both Jesse Jarvis and Desiree Wright had been taken into custody and transported from the scene, Julian was under the misimpression that Anthony Jarvis had to be removed from the camper in order to finish executing the search warrant; that protocol required they remove Anthony Jarvis from the property in order to search all of the buildings and vehicles.

Julian then made the decision to enter the camper to remove Anthony Jarvis. Julian spoke with Claremont Officer Brent Wilmot and Trooper Gaiser and devised a plan whereby Wilmot would throw a diversionary “flashbang” device into the camper, followed immediately by Gaiser’s entry into the camper with his Taser. Julian asked Gaiser to take on this task because the SOU did not have an officer on scene trained in the use of a Taser. Julian was to follow closely behind Gaiser, because Julian was concerned that Gaiser was not a member of the SOU.

Prior to making the decision to enter the camper, Julian did not speak with Hathaway or Claremont Captain Colby Casey. According to Julian, he was never told that Anthony Jarvis might be armed, or, even, that Jarvis was a convicted felon.

Once the “flashbang” went off, Julian saw Gaiser enter the camper. He heard the discharge of the Taser. He heard gunfire, saw that Gaiser had fallen to the floor, and heard more gunfire. Julian, who was close behind Gaiser, leaned into the doorway of the camper, and shot his rifle three times in the direction of the back of the camper. He did not see Anthony Jarvis before shooting. The interior of the camper was smoky and dark. He saw Gaiser reload his firearm and fire again. The only two officers who fired were Gaiser and Julian

When the gunfire stopped, Andrews reached in and pulled out Gaiser. Julian and his team discussed tactics and made use of a pole camera to look inside the camper. When they determined it was safe, Julian entered the camper. He found a handgun by Jarvis’s feet with an activated laser sight attached. He picked that up and moved it next to a seat by the door of the camper.

### **Claremont Police Captain Colby Casey**

Captain Casey was in charge of the Investigations Unit for the Claremont Police and was involved in the investigation leading to the arrests of Jesse Jarvis and Desiree Wright. In the days leading up to July 26, 2008, Casey was investigating numerous violent acts attributed to Jesse Jarvis. As part of that investigation, the Claremont Police were working with informants Jennifer Limoges and Heidi Hathaway (also known as Heidi Busby), the sister of County Attorney Marc Hathaway.

On July 26, 2008, Casey received a call from Heidi Hathaway indicating that Limoges was to meet with Jesse Jarvis that evening. Further information indicated that Jarvis would be inside a residence at 60 Summer Street in Charlestown and that Jarvis’s father would be in a camper located on that property.

When Casey arrived at the Claremont Police Station, he met with County Attorney Hathaway and Assistant County Attorney Bell. They had already been involved in strategic planning for the arrest of Jesse Jarvis, which included activating the SOU. Hathaway filled him in on the details of the plan to surround the house and try to talk Jarvis out of the residence.

Casey then gathered with other officers at the Charlestown Police Department, and then at the residence at 60 Summer Street. Desiree Wright was quickly taken into custody. Casey learned from the homeowner that there were guns on the second floor of the residence, but that it was not clear if Jesse Jarvis knew of their existence or if there was any ammunition for those weapons. Claremont Captain Mark Chase successfully talked Jesse Jarvis out of the residence and took him into custody without incident. Daniel Allain was also talked out of the camper and taken into custody. That left Anthony Jarvis inside the camper in an increasingly agitated state, screaming and hollering.

Newport Police Officer Gregory Belisle told Casey that he learned from Wright that Anthony Jarvis had a gun inside the camper. Upon learning that, Casey passed that information to other officers at the scene, including Gaiser. Casey then had a conversation with Hathaway, Bell, and Belisle about Anthony Jarvis being a convicted felon, having previously been convicted of gun related felonies. They discussed the option of securing the scene while they got an additional warrant to arrest Jarvis and search his camper for a weapon. Hathaway instructed Casey to remove Jarvis immediately from the camper and arrest him without a warrant, and then apply later for a search warrant. Casey communicated Hathaway's directive to Julian.

During that discussion, Claremont Sergeant Stan Andrews was engaged in negotiations with Jarvis, who continued to make loud and vulgar statements about not coming out of the camper and telling the officers to leave. There was no doubt that Jarvis knew these were police officers at the residence. Casey learned that the plan involved a "flashbang" device. Casey saw Gaiser test his Taser. Four or five minutes later, the "flashbang" went off. Immediately, Gaiser entered the camper, and at the same moment, Casey heard gunfire from within the camper. Gaiser was not fully inside the camper when the gunfire erupted. He heard a momentary break in gunfire and then additional return gunfire from Gaiser. He heard a third set of gunfire from Julian's rifle. Casey saw two other people enter the camper, Julian and Andrews. Andrews carried Gaiser out. The entire incident lasted only seconds. The total amount of time from when the police arrived at the residence to when the shooting stopped was approximately thirty minutes.

### **Claremont Police Sergeant Stan Andrews**

On July 26, 2008, Andrews was on patrol when he received a dispatch call to contact County Attorney Hathaway. Hathaway informed him that Heidi Buzby had information that Jesse Jarvis would be at a residence at 60 Summer Street in Charlestown. Andrews called Buzby directly. He received the same information from Newport Officer Greg Belisle. Andrews, along with Hathaway, Captain Chase, Captain Casey and Assistant County Attorney Bell gathered at the Claremont Police Department to devise a plan to deal with Jarvis, based on the information they received from the cooperating individuals. They decided to surround the Charlestown residence and execute a search warrant. They also decided to activate the SOU.

Andrewski was given the task of watching the Charlestown residence from a neighbor's house, which he did with Bell. They both waited and watched that house until the SOU team arrived, at which point Andrewski put on a clearly marked police tactical vest and joined the other officers at the scene. The officers made their presence known by yelling "police." A male came out of the camper and was taken into custody without incident. After he came out, Andrewski heard movement inside the camper and knew another person was inside, most likely Anthony Jarvis. Andrewski was very familiar with Anthony Jarvis from prior police contacts. He knew Jarvis had possessed guns in the past and that he was a convicted felon. Trooper Lee was also calling to the person inside the camper and indicated that he would send in the police dog if the person did not comply. Andrewski heard Jarvis say that he would kill the dog if it came inside. Andrewski continued negotiating with Jarvis, who called Andrewski by name.

While that was happening, Andrewski was aware that other officers were trying to coax Jesse Jarvis out of the main residence. Andrewski saw Jesse Jarvis in a second floor window and heard him yell that he would come out, which he did without incident.

Once Jesse Jarvis was taken into custody, Andrewski continued to negotiate with Anthony Jarvis. From his perspective, those negotiations lasted for about half an hour. Jarvis asked him if the police had a warrant and was told they did. Jarvis's mood fluctuated from calm statements to angry yelling and screaming. Andrewski thought that Jarvis might be impaired due to drugs or alcohol. Jarvis said that the police were not going to take him alive, that he was not going back to jail, and that he was not going without a fight. During those negotiations, Andrewski learned that there might be a gun inside the camper, although he did not know the source of that information.

Andrewski was not involved in the decision to enter the camper. He heard that permission had been given, probably by the County Attorney, to enter the camper and arrest Anthony Jarvis. He saw Officer Wilmot holding a "flashbang" diversionary device and also saw Julian and Gaiser talking. Julian communicated the basic plan to Andrewski and moments later Wilmot threw the "flashbang," followed in immediate succession by Gaiser entering the camper. Julian was directly behind Gaiser. Within a second of Gaiser entering, Andrewski heard gunfire. He did not hear the clicking of Gaiser's Taser. He heard Gaiser state that he had been hit, saw Gaiser on the floor of the camper, saw Gaiser firing, and heard gunfire from the other end of the camper. He did not hear any statements from Jarvis once the gunfire started. Although he saw Julian lean inside the camper, he did not remember Julian firing his rifle. When the gunfire stopped, Julian backed out of the doorway. Gaiser asked Andrewski to get him out. Andrewski put down his rifle, dragged Gaiser out, threw Gaiser over his shoulder and brought him to a cruiser located on the street.

### **Newport Police Officer Gregory Belisle**

In the days prior to July 26, 2008, Belisle was investigating the whereabouts of Jesse Jarvis and received reliable information from a confidential informant. County Attorney Hathaway was also involved and had an informant who was providing him

information. Based on all of that information, Belisle met at the Claremont Police Department with Hathaway, Assistant County Attorney Bell, Captains Chase and Colby and Chief Julian. The group began work on drafting a search warrant for the property at 60 Summer Street in Charlestown, where Jarvis was supposed to be located. Belisle was also familiar with Anthony Jarvis, having arrested him for felon in possession of weapons. The group devised a plan to surround the residence in Charlestown. Belisle had to leave the meeting before it concluded and later briefly joined the group at the Charlestown Police Department before moving to the residence at approximately 7:30 p.m.

When they arrived, the main residence was surrounded while other officers attended to the camper located just across from the main house. A man came out of the camper and was arrested. Desiree Wright was also taken into custody on a felony warrant. Officers were yelling at the house to get Jesse Jarvis to come out while other officers were negotiating with Anthony Jarvis who was located inside the camper.

Belisle talked with Wright before she left the scene. Wright told him that she thought there were weapons in the main house, but was unsure if Jesse Jarvis had possession of them. She also stated that there was a gun in the camper. Upon learning that, Belisle made efforts to communicate that information to other officers at the scene. He did not have radio capabilities, so he told all team members who were close by and then yelled across the field to Trooper Lee. He stated a few times that there was a weapon in the camper. Belisle stated that the information about the gun in the camper was given to Hathaway, Colby and Julian.

Belisle heard the conversation between Anthony Jarvis and officers situated near the camper. He heard Jarvis yelling to “get the fuck off the property,” and to “leave his kid alone.” Belisle watched Jesse Jarvis come out of the house and be taken into custody.

After Jesse Jarvis was safely in custody, the police turned their focus on the camper. Anthony Jarvis still refused to come out and was yelling “you’re not taking me alive,” and “get off the fucking property.” Belisle participated in a discussion with Hathaway and Colby about what to do with Jarvis. They discussed whether they could search the camper under the existing search warrant. Belisle had not seen the warrant. They discussed the possibility that Anthony Jarvis was a felon in possession of a weapon. Hathaway and Bell ultimately decided that Jarvis needed to be arrested before the SOU left the scene and that Jarvis would be charged with obstructing government administration. Colby relayed that decision to Julian by cell phone.

Belisle next saw the team assembling around the trailer. He saw Gaiser take out his Taser and test it. He saw Wilmot with a “flashbang” which he tossed inside the camper. He saw Julian with his hand up as he did a countdown for the “flashbang” to go off. Seconds after it went off, Gaiser entered the camper, and seconds after he entered, Belisle heard gunfire from within the camper. Julian was just outside the camper and fired his rifle inside the camper. There were no shots fired from outside the camper.



**Newport Police Corporal Patrick Zullo**

Zullo was a member of the SOU tactical team. On July 26, 2008, he was called to the Claremont Police Station with the other SOU members to assist in the possible apprehension of Jesse Jarvis. At the station, Julian informed him that the plan was to form a perimeter around a residence at 60 Summer Street in Charlestown in hopes that they could coax Jarvis out of the residence and take him into custody. Only five members of the SOU team reported to the Claremont Police Department.

They traveled to the Charlestown Police Department and then drove in the SOU van to the residence. Once there, Zullo took a position on the perimeter watching the backside of the main residence. Although his line of sight was mostly obstructed, he was able to hear screaming and yelling from the camper located across from the main house. He heard the police identifying themselves and announcing that they had a warrant. He could hear someone yelling back at the police. Andrews was doing most of the talking with the person inside the camper. That individual acknowledged Andrews and was swearing and yelling saying such things as “fuck you, I’m not coming out, I’m a loner, you need to leave me alone, get off my property.” Zullo could also hear an officer yelling for Jesse Jarvis in the main house, telling him that they had a warrant and for him to come out.

Julian informed him that a “flashbang” would be used and that he was going to start the countdown. Julian mentioned forming a formation or “stack” to approach the camper after the “flashbang” went off. Julian also told him that there was a firearm inside the camper. Julian then asked where Wilmot was located.

Zullo then saw Julian start the countdown to the “flashbang.” When the device went off, Zullo moved closer to the camper. Almost instantaneous with the bang going off, he heard gunfire. He did not hear a Taser discharge. All of the gunfire was from inside the camper. No officer discharged a weapon from outside the camper. When Zullo looked toward the door of the camper, he saw Julian leaning inside and could hear Gaiser yell that he had been hit. He saw Gaiser leaning up against the back wall of the camper with his side arm out and a magazine by his leg. He did not see Gaiser fire his gun. When the gunfire stopped, Zullo saw Andrews and Sergeant Daignault reach in and grab Gaiser by the legs to pull him out of the camper.

**Claremont Police Officer Justin Logan**

Logan was a member of the SOU who responded to the call-out on July 26, 2008. Logan, along with the other SOU members, gathered at the Claremont Police Department until a plan was devised for the pursuit and likely arrest of Jarvis. After leaving Claremont, they went to the Charlestown Police Department and then in the SOU van to 60 Summer Street.

Logan was the first officer on the scene. He encountered a woman in front of the house and escorted her away from the residence. He also witnessed the arrest of Desiree

Wright. Logan was assigned to watch the backside of the house. While performing that security duty, he saw movement at a window in the main house. He could also hear yelling at the camper. He heard a man inside the camper yell that he was not coming out, that “you can kill me, you’ll have to shoot me,” and “you’ll never take me alive.” Logan was aware that Andrewski was negotiating with the man inside the camper. He thought a rapport was being established and that Andrewski was making some progress in getting the man to come outside. Logan also heard Chase yelling toward the main house for Jesse Jarvis to come out. Jarvis came and was taken into custody without incident.

After Jesse Jarvis was transported from the scene, Logan continued to watch the house because of reports that there were guns inside and it was unknown if other individuals remained inside the residence. While at the scene, Logan became aware that a plan was being devised to remove Anthony Jarvis from the camper and that Jarvis had a gun with him in the camper. He was informed of the use of a “flashbang.” He heard the bang and then, immediately thereafter, saw officers enter the camper. It was less than a second after they entered that Logan heard gunshots from within the camper. Logan heard multiple gunshots, saw glass breaking, and saw evidence of projectiles flying out the window and metal walls of the camper. At one point, he heard a brief pause and then more gunfire, as if someone reloaded and continued firing.

After the shots stopped, he heard painful moans or yelling from inside the trailer. It sounded like the person was in pain. Logan also learned that an officer had been hit. He heard Gaiser say “get me out of here.”

### **Claremont Police Captain Mark Chase**

On July 26, 2008, Chase received a call from Andrewski, who was following some leads in the investigation of Jesse Jarvis. Based on that information, Chase and other investigators gathered at the Claremont Police Department. Chase drafted a search warrant for Jesse Jarvis and Desiree Wright. The investigators decided to activate the SOU. As part of that process, Charlestown Police Chief Edward Smith was consulted and granted a request for assistance in his jurisdiction in executing the warrant by Claremont officers, the SOU team and State Police Officers. Chief Smith designated Charlestown officers to assist in the warrant execution. Once a judge signed the warrant, the group assembled first at the Charlestown Police Station for a briefing and then moved to the residence at 60 Summer Street where it was believed Jarvis was located. They knew from prior surveillance that Anthony Jarvis lived in a camper at that address. Officers were assigned to deal with the camper. Andrewski became the primary negotiator with Anthony Jarvis, due to their prior contacts. Chase was primarily watching the main house. After Logan saw movement in a window, Chase began yelling for Jesse Jarvis to come out. Within a few minutes, Jesse Jarvis did come out and was taken into custody without incident.

Chase was aware of yelling coming out of the camper. He heard Anthony Jarvis yell in a loud manner to “leave me alone,” and “I won’t be taken alive.” Chase heard Lee threaten to send the police dog into the trailer. Chase could not tell whether Jarvis was

intoxicated. Captain Casey told him they had information that Jarvis had a gun in the camper and that, given that he was a convicted felon, they had to deal with Jarvis before they left. Chase left shortly after that conversation. He transported Jesse Jarvis to the House of Corrections. On the ride, Chase heard the radio transmission of a shooting.

### **Trooper Stephen Alexander Lee**

Lee had been involved in the prior investigations of Jesse Jarvis, specifically an incident involving a burglary and theft of German flags from a residence. Lee had used a police dog to attempt to track Jarvis. Lee regularly received canine assistance calls from the Claremont Police.

On July 26, 2008, Lee received a call from Officer Wilmot about the possible location of Jesse Jarvis. Lee went to the Claremont Police Department and met with Hathaway and Chase. They asked him to go to the Charlestown Police Department and stand by while they continued to work with a confidential informant and devise a plan that might lead to the capture of Jarvis. Lee's main role was to be a canine handler, which was considered important given Jarvis's history of running from the police. Andrews told him that Jesse Jarvis was thought to be in possession of a gun.

At the Charlestown Police Department, Lee met with Gaiser and Trooper-Trainee Barrett. Together, they waited there for about three hours while the others worked on a plan at the Claremont Police Station. Lee learned that the plan was to obtain a search warrant for a residence in Charlestown. At some point, Gaiser and Barrett left and headed to Keene. Lee called them back to Charlestown when he was informed that that SOU was being activated and Gaiser was needed to supplement the SOU team. Only five SOU team members responded and more police personnel were needed. Lee also learned that the plan was to execute the search warrant before it got dark. Julian, along with Chase, came up with a general plan to move from the Charlestown Police Department to the residence at 60 Summer Street, remove any civilians from around the house, form a police perimeter around the house and coax Jesse Jarvis out of the main residence.

When they arrived at the residence, Lee jumped out of his cruiser, with his police dog, and ran up the driveway. He noticed a male, later identified as Daniel Allain, exit the camper and lay on the ground. Allain was quickly taken into custody and removed from the scene.

Lee looked inside the camper and saw a man. Lee pointed his rifle at the man and ordered him to show his hands. The man, later identified as Anthony Jarvis, did not respond but instead retreated to the back of the camper out of Lee's sight. Lee then moved closer to the door of the camper with his dog and told Jarvis to come out or he would send in the dog. Lee yelled those commands several times. At first, Jarvis did not respond, and then said something unintelligible, followed by "Don't send that dog. I'll fucking kill him."

Around this time, Chase started calling for Jesse Jarvis to come out of the main residence. Jarvis did come out and was taken into custody without incident. After Jarvis was in custody, Lee turned his attention back to the camper. Andrews started to negotiate with Anthony Jarvis as the two of them had a relationship from prior contact. Lee heard Anthony Jarvis yell out “I haven’t done anything wrong. I’m not fucking coming out. You’re going to have to come in and get me.” Jarvis said again “Don’t send in that dog. I’m going to shoot that dog.” Lee thought Jarvis sounded highly intoxicated. At times, he was screaming, and then became silent, as if he was about to pass out. At other moments, he was incoherent or slurring his words. Those negotiations lasted ten to fifteen minutes. While those negotiations were happening, Lee received word, most likely from Hathaway or Chase, that Jarvis might have a firearm inside the camper. He heard that information yelled from the street where Hathaway and Chase were standing.

Lee knew that Jesse Jarvis and Desiree Wright were in custody and thought the police might either back off or go in the trailer after Anthony Jarvis. Julian informed him that the decision was made to go inside the trailer. Lee did not know at the time who made that decision. He later learned the decision was made by County Attorney Hathaway based on an assessment that Jarvis was obstructing the execution of a search warrant. Lee remembered a discussion of three options, including sending in the dog, using gas, or throwing a “flashbang” device. Lee did not know who made the decision to use the “flashbang.” He did see Gaiser test his Taser and then saw Wilmot throw the “flashbang.” Immediately, Gaiser ran up the steps to the camper with his Taser. As soon as he entered, Lee heard a volley of gunshot, followed by a brief lull in the gunfire, followed by a second volley of gunfire. Some of those rounds came out the back wall of the camper. Lee did not see anyone other than Gaiser enter the camper. After the gunfire stopped, Lee heard Gaiser yell from inside that “I can’t stand.” Lee then saw Andrews go up into the trailer, pick up Gaiser and carry him toward the street and put him in a cruiser.

### **Trooper-Trainee Mark Barrett**

On July 26, 2008, Barrett was a State Trooper Trainee and Gaiser was his field-training officer. At approximately 3:30 p.m. on that day, Barrett and Gaiser were asked to go to the Charlestown Police Department to assist in the execution of a search warrant that was being drafted for the arrest of Jesse Jarvis. Barrett remembered Lee stating that Jesse Jarvis might have a weapon. Barrett and Gaiser waited at the police station for about two hours and then left. They were called back to the Charlestown Police Station around 6:30 or 7:00 p.m.

When they arrived, the SOU team had assembled. Also present were Chase, Lee, Hathaway and some Charlestown police officers. Barrett and Gaiser followed the SOU van to 60 Summer Street. Gaiser walked up the driveway and out of Barrett’s sight. Barrett took a surveillance position behind a large tree in front of the house. He remained at that location for most of the incident that followed and was not in a position to see what happened at the camper. He did see a captain from Claremont standing in the driveway with Gaiser. Gaiser was holding a shotgun. He heard the captain yell to try

and get someone out of the house. He saw Desiree Wright taken into custody and placed in a cruiser. He did not see Jesse Jarvis taken into custody.

While he was standing behind that tree, Barrett heard a loud bang, followed by several rounds of gunfire. He estimated that bang and gunfire started approximately fifteen minutes after he heard the captain yelling for someone to come out of the house. He estimated that he heard about twenty rounds of gunfire. He could not tell if the gunfire was coming from the camper or inside the main residence. After the gunfire stopped, Barrett heard Gaiser yelling out in pain and saw two officers carrying Gaiser to the street.

### **Newport Police Sergeant Eric Daignault**

Daignault was a member of the SOU team. After being called out, Daignault met with other investigators at the Claremont Police Department. There they waited for Casey and Julian to devise a strategy that would lead to the arrest of Jesse Jarvis. After the search warrant for Jarvis was finalized, Daignault and the others assembled at the Charlestown Police Station for a briefing before moving to a residence at 60 Summer Street. Daignault was aware that less than a full SOU team responded for duty that day. At the briefing, Daignault and the others were shown a photograph of Jarvis, a map of the area and a map of the residence. Daignault's assignment was to help maintain a perimeter around the residence.

Upon arriving, Daignault saw some people being escorted away from the residence. He heard yelling coming from an area near a horse trailer. He could not make out most of what was being said. He did hear someone yell to Jesse Jarvis to come outside. He saw officers escorting to a cruiser a male who was limping and then was informed by Julian that they had one person in custody, but for Daignault to hold his position. Daignault also saw Andrews outside a camper yelling for Anthony Jarvis to come outside. Daignault could see Jarvis inside the trailer through a side window and, at one point, saw him jump up and then jump back down. He heard Jarvis say "I didn't do anything. Go away. Leave me alone." Andrews told him to "Just come outside. We're not going to hurt you." Jarvis sounded very agitated. Daignault did not hear Jarvis make any threatening statements.

When Daignault saw Julian use a hand gesture, he knew a "flashbang" was about to be deployed. He saw Julian do a countdown and then heard the bang. Daignault did not know or see who deployed the "flashbang." When he heard the bang, he began to run toward the door of the camper. Just as he passed in front of the camper, he heard multiple popping noises, which he recognized as gunfire. There was a three or four-second delay and then he heard more gunfire. Daignault did not see if anyone had entered the camper after the "flashbang." He thought that he heard twenty-five to thirty rounds being fired.

Once the firing stopped, Daignault moved closer to the door and saw Gaiser with his legs approximately two feet inside the door. Gaiser was sitting up and saying "Get

me out of here.” Daignault and Andrews reached in, grabbed a boot and a leg and pulled Gaiser out of the camper. Julian was standing beside them.

Daignault entered the camper after it was determined that it was safe to do so. Inside, he saw that a weight bench had been used as a barricade that blocked access to Jarvis, who was located in the back of the camper. Daignault saw a Ruger semi-automatic handgun with an activated laser sight at Jarvis’s feet. He could smell marijuana inside the camper. He saw Taser wires, with one probe sticking in Jarvis’s leg.

### **Claremont Detective Brent Wilmot**

Wilmot was a member of the SOU team that was activated on July 26, 2008, and was told to report to the Claremont Police Station. He was familiar with Jesse Jarvis and the various offenses for which he was wanted by law enforcement. Once at the Claremont Police Station, Wilmot was aware that the police were receiving information from a confidential informant and that a warrant was being drafted for the arrest of Jarvis and Desiree Wright. Involved in the strategic planning were Hathaway, Bell, Chase and Casey. Wilmot had been involved in the investigation into the whereabouts of Jarvis and had conducted surveillance in the days prior to July 26<sup>th</sup>. According to Wilmot, the plan was to surround a residence in Charlestown where Jarvis was likely located and to call him out of the residence.

Wilmot next turned his attention to the second floor of the main residence, based on information that Jesse Jarvis was inside. He was privy to the information that Jarvis might have a weapon in the house. Other officers were attending to the situation at the camper, where Anthony Jarvis was likely located. Wilmot was familiar with Anthony Jarvis, knew he was a convicted felon and knew he had been arrested in the past for possession of firearms. When he initially arrived at the Summer Street residence, Wilmot did not know whether Jesse Jarvis was in the camper with his father.

Wilmot saw Andrews, who was wearing a ballistic vest and carrying a rifle, start a dialogue with Anthony Jarvis. Andrews told Jarvis to come out of the camper, that the police were not there for him but for his son, and that they had a search warrant that covered the camper. Wilmot also heard Lee threaten to send in the police dog and Jarvis respond that he did not want to kill the dog. Wilmot also heard Jarvis state “You’re not taking me alive. I didn’t do anything wrong. This isn’t about me. I know you are here for my boy. Why are you here for me?” Around this time, Wilmot learned, likely from Belisle, that Jarvis had a gun inside the trailer.

Wilmot heard Chase start a conversation with Jesse Jarvis, who was in a window on the second floor of the main residence, instructing Jarvis to come outside. Jarvis came out of the house and was arrested.

After the arrest of Jesse Jarvis, Andrews continued his dialogue with Anthony Jarvis. The door to the camper remained open the entire time. Wilmot heard Jarvis state repeatedly not to send in the dog and that he did not want to kill the dog. At times, Jarvis

screamed at the top of his lungs. It appeared Andrews was making some progress and that Jarvis might come out of the camper. When Andrews picked up his gun because he could not see Jarvis's hands, Jarvis "flipped out" and accused Andrews of sticking a gun in his face. Hathaway told Wilmot that Jarvis was to be arrested.

Wilmot participated in a discussion about tactics, whether to deploy the "flashbang" followed by sending in the dog or to use the "flashbang" with a Taser. Wilmot was not sure who made the decision to use the Taser. He could have been the one who suggested that, but he remembered the general consensus was to use the Taser. Julian asked him if he had a Taser, which Wilmot did, but he did not think it a wise tactic for him to deploy the "flashbang" as well as the Taser.

In preparation for deploying the "flashbang," Wilmot kept eye contact with Gaiser, who was designated to enter the camper with his Taser after the "flashbang" was deployed. Wilmot heard Gaiser speaking with Lee, asking if the dog would be able to handle the noise of the "flashbang." Lee assured Gaiser that the dog would be fine. Wilmot then walked up the steps of at the doorway of the camper, peered around the corner of a small counter down the isle of the camper, rolled the "flashbang" down the isle and then heard the boom of the "flashbang." As soon as Wilmot threw the flashbang inside and stepped out of the way, Gaiser entered with his Taser drawn. Wilmot heard Gaiser yell to Jarvis to put up his hands. Almost instantaneously to Gaiser entering, Wilmot heard the pop of the Taser being deployed and then gunfire. Wilmot backed away from the camper when he saw evidence of bullets coming out of the camper. He heard a brief lull in the gunfire, followed by more gunfire. Wilmot did not see Julian or any other officer besides Gaiser enter the camper. He did not see any officer fire his weapon. He did not see any muzzle flash. He did not discharge his weapon. He did not hear Jarvis make any statements after the "flashbang" was deployed.

Wilmot then heard a radio transmission checking on the status of officers. He responded that he was unhurt. He heard Gaiser yell out from inside the trailer that he was not okay and could not stand up or could not use his leg. Gaiser then started to push his body out of the trailer and Andrews reached in for him, picked him up, threw him over his shoulder and ran across the front lawn to a cruiser. Wilmot remembered that the shooting ended around 8:00 p.m. because he heard church bells. After the officers determined that it was safe to enter the camper, Wilmot went inside and saw a gun at Jarvis's feet. He also saw evidence of a deployed Taser.

#### **Sullivan County Assistant County Attorney John Bell**

On July 26, 2008, Bell went to the Claremont Police Department to participate in the investigative efforts to apprehend Jesse Jarvis. Bell understood his role to be limited to assisting in the preparation of the warrant and to observe the police activities at 60 Summer Street, Charlestown. Bell did not know who activated the SOU. He was present for discussion about whether they had sufficient law enforcement resources to handle this operation. He did not remember any discussion about calling for help from other police departments. He remembered Julian indicating that he was comfortable proceeding with

the resources that they had available to them. Once the decision was made, Bell was aware of a discussion of the tactics to be used once they arrived at the residence in Charlestown. It appeared to Bell that Julian was the spokesman for the SOU and the County Attorney was deferring the decision making to Julian.

Bell accompanied Andrews to a neighboring house in Charlestown to conduct surveillance. Once the SOU team arrived, Andrews and Bell joined the team. Bell stood on the street in front of the residence with Hathaway, Chase and Belisle. Bell saw Desiree Wright and Daniel Allain being taken into custody. He heard Wright state that Jesse Jarvis was not inside the house. Bell also was made aware of conflicting information from another female that Jarvis was inside. Bell heard officers yell to Jarvis to come out, that the police were not going away. A short time later, Jarvis did come out and was taken away from the scene.

Prior to Jesse Jarvis being arrested, Bell was under the impression that a person ran into the camper located on the property and would not come out as directed by police. He received information, attributed to Wright, that the person in the camper was Anthony Jarvis and that Jarvis had a weapon in the camper. After Jesse Jarvis was arrested, Bell heard officers exhorting Anthony Jarvis to come outside. He could hear Jarvis yelling but could not discern what he was yelling.

Bell participated in discussions with Hathaway and Colby about how to handle Jarvis's refusal to come out of the camper. They talked about the fact that Jarvis was suspected of being in possession of a weapon. They also discussed options for criminal charges once they got Jarvis in custody; charges which included obstructing government administration, obstructing the execution of a warrant and felon in possession of a weapon. Bell did not remember any talk at that point about getting a warrant to search the camper. He did remember discussing exigent circumstances and the need to get Jarvis out of the camper before the police left the scene. According to Bell, Hathaway made the determination that there was a legal basis to take Jarvis into custody. Bell was unaware of who made the tactical decisions about entering the camper, although he was informed by Hathaway or Colby that they were using a "flashbang." He was present for a discussion about sending in the police dog and using a "flashbang." Shortly thereafter, Bell heard the loud boom of the "flashbang" and saw two officers go inside the camper, a state trooper and a SOU member. After the entry, Bell heard a popping noise, followed by a brief pause, and then several more pops. He remembered hearing two volleys of gunfire. At some point, Chase put his hand on Bell's shoulder to guide him down behind a cruiser in order to take cover. Bell heard that an officer had been hit and he saw Andrews running from the camper carrying the trooper over his shoulder.

After the trooper was taken to the hospital, Bell heard Sergeant Daignault unsuccessfully try to establish verbal contact with Jarvis. The officers on scene worked on securing the camper and finding a way to safely look inside. Bell was made aware that bedding or stuffing or blankets were obstructing some of the windows to the camper. Bell saw the paramedic come out of the camper and learned that Jarvis was dead.



**Sullivan County Attorney Marc Hathaway**

Hathaway was interviewed two times in relation to this incident: on July 27, 2008, and again on August 6, 2008. During those interviews, Hathaway described how he initially became involved in law enforcement efforts to arrest Jesse Jarvis. On July 26, 2008, he received a call from his sister, Heidi Hathaway (also known as Heidi Busby), who was providing information about Jarvis's whereabouts to the Claremont investigators. Based on that information, Hathaway went to the Claremont Police Station to assist in developing a strategy to capture Jarvis. He participated in conversations with Captains Chase and Colby and suggested drafting a warrant to secure the arrest of Jarvis and Desiree Wright. They discussed whether they had sufficient police officers to properly execute the warrant, given concerns about Jarvis's associations with white supremacists, his history of violence and his prior bad acts. They also discussed the prospect that Jesse Jarvis could be armed.

At some point in those discussions, Captain Chase placed the SOU on standby. Hathaway was not sure what specific procedure was used for doing that. It was his recollection that Chase had a conversation with Chief Smith of Charlestown. Hathaway was not aware if Chief Julian was consulted before the SOU members were paged. The SOU was then subsequently activated, but Hathaway did not know who had done that. From Hathaway's perspective, Chase was the principal law enforcement officer making decisions at that point.

Chase and Assistant County Attorney Bell drafted the search warrant and affidavit. Hathaway did not read the warrant but was informed of its content and knew that a judge signed it. SOU members began assembling at the Claremont Police Station. Hathaway remembered a conversation with Julian about whether they had sufficient police resources for this operation. He remembered that Julian suggested calling out the Keene SWAT team. According to Hathaway, Julian's concerns were abated when he was informed that the scope of the operation was to secure the property at 60 Summer Street, establish a perimeter around the residence and call Jesse Jarvis out of the main residence, and not to enter the main house to search it room by room. Hathaway remembered Julian telling him that he had sufficient resources for that specific, limited operation. According to Hathaway, Julian had an operational veto that he could have exercised if Julian felt he needed more police officers.

Hathaway knew that the search warrant was only for Jesse Jarvis and Desiree Wright, and, to that end, authorized the search of the property and buildings at 60 Summer Street. The warrant included the search of the camper that was known to be the residence of Anthony Jarvis, but only for the purpose of finding Jesse Jarvis and Wright. Hathaway was uncertain if the other principal officers at the scene, including Julian, had a clear understanding of the scope of the warrant.

Once that warrant was signed, Hathaway and the other investigators, including the five SOU members, went to the Charlestown Police Department. There Julian met briefly with the SOU team and assigned tasks to each member. Officers were assigned to

escort people away from the residence. Other officers were assigned to establish a security perimeter. Yet others were specifically assigned to Anthony Jarvis's camper. Hathaway's goal was to complete this operation before nightfall, primarily because of concerns that Jesse Jarvis would attempt to flee again from the police and they did not want to lose sight of him because it was dark outside.

Hathaway and Captains Casey and Chase arrived at the scene a few minutes after the SOU van. Within minutes, investigators took Wright into custody and spoke with the owner of the property. Hathaway learned that Jesse Jarvis was inside the main residence, that there were firearms inside the residence but that it was uncertain if Jarvis knew of their existence or even if there was any ammunition for those weapons. Hathaway also learned from Wright that Anthony Jarvis had a weapon in the camper. That was the first Hathaway heard of the gun in the trailer. Hathaway did not pass that information on to any of the officers. He assumed that information circulated and became widely known. He had no memory of telling the information about the gun to either Julian or Gaiser.

Approximately fifteen minutes after he arrived, Hathaway saw Jesse Jarvis taken into custody and removed from the scene. At that point, Hathaway turned his focus to Anthony Jarvis, who was refusing to come out of the camper and made the determination that, despite the lack of a warrant, a legal basis existed, based on exigent circumstances, to remove Anthony Jarvis from the camper. Hathaway was unaware that Jarvis had been threatening to kill the police dog. He remembered a brief discussion about whether they needed to get a second warrant to search the camper for weapons, but decided they could arrest Jarvis without a warrant based on exigent circumstances. The specific charges they discussed against Jarvis included hindering apprehension, disorderly conduct and felon in possession of a firearm. Hathaway denied ordering anyone to enter the camper, but conceded that his determination of legal cause to remove Jarvis might have been interpreted as such by officers at the scene.

He was not informed of the decision to use a "flashbang," or the plan to have Gaiser enter the trailer immediately after the "flashbang" went off. Hathaway assumed that Julian was in charge of the SOU and making those tactical decisions. Within minutes, Hathaway saw activity by the camper that indicated the SOU was planning something. He saw Gaiser step to one side and test his Taser. He heard the "flashbang" explode, saw the camper fill with white smoke and saw Gaiser enter. Almost the moment Gaiser went in, Hathaway heard gunfire, followed by a pause, then a second volley of gunfire. He saw Julian go inside after Gaiser and assumed that he fired his weapon. Once the gunfire stopped, he saw Sergeant Andrews go to the door of the camper, grab Gaiser, throw him over his shoulder and walk up toward the street.

Hathaway stated that this entire incident happened very quickly. He noted that they left the Charlestown Police Station at 7:23 p.m. and shots were reported fired approximately 30 minutes later, at 7:54 p.m.

Hathaway drove to the hospital with Gaiser. On the ride, Hathaway recalled that Gaiser mentioned that, at some point before entering the camper, he saw Anthony Jarvis

stand up and did not see him holding a gun. Gaiser also told him that he was fired upon almost immediately after he entered that camper, that the camper was filled with smoke making it difficult to see, and that there were bullets bouncing everywhere.

### **State Trooper Phillip Gaiser**

On July 26, 2008, Gaiser was performing his duties as a field training officer working with Trooper-Trainee Barrett. At approximately 3:00 p.m., they were asked by a supervisor to go to the Charlestown Police Department and assist in efforts to apprehend Jesse Jarvis. Gaiser and Barrett waited at the police department while the County Attorney and Claremont Police drafted a search warrant. When that took longer than expected, Gaiser and Barrett left the Charlestown Police Department around 6:00 p.m.

At approximately 7:00 p.m., they were asked to return to Charlestown and met other officers, including SOU team members, and County Attorney Hathaway, in the parking lot of the police department. Gaiser was unsure who was in charge of the operation but thought it was Hathaway, Chief Julian or a police captain from Claremont. He listened to a five minute briefing. The only name he remembered being mentioned was that of Jesse Jarvis. He learned that Jarvis might be armed. He was not briefed on Anthony Jarvis. He knew there was a search warrant for the property at 60 Summer Street. He never read that warrant. Chief Julian showed him a diagram of the property and assigned him the tasks of taking custody of three individuals who had been seen in the driveway of the property drinking beer and then to maintain a perimeter on the main residence.

When Gaiser and Barrett arrived, they parked behind the SOU van and approached the Summer Street property. Gaiser was in full uniform. He did not see those individuals in the driveway. He did see a female and a shirtless, tattooed male being taken into custody. At first, Gaiser assumed the shirtless male was Jesse Jarvis, but was quickly corrected. Gaiser continued to help maintain a perimeter. Within minutes, he became aware of a situation at the camper and noticed a discussion between Sergeant Andrewski and a person, at this point unidentified to Gaiser, inside the camper. Trooper Lee and his canine were also standing near the door of the camper. There were a number of officers standing out in the open in the area between the camper and the main residence. That was an indication to Gaiser that the situation at the camper was not overly dangerous.

Jesse Jarvis soon made himself visible through a second story window of the main residence. Jarvis was ordered out. Soon after, he complied with that order, was taken into custody without incident and was quickly taken from the scene. Gaiser was informed that there was another individual inside the camper who could be in possession of a weapon, but that the individual might not know about the weapon. According to Gaiser, that information about the weapon came from County Attorney Hathaway.

Gaiser walked over toward the camper and heard Andrewski talking to a man inside being referred to as "Tony." That man sounded intoxicated. The man did not want

to come out of the camper, felt he did not have to and was asking to be left alone. Gaiser heard "Tony" say that he was afraid to come out because the police would point guns at him. Andrewski invited the man to "Come out and say goodbye to Jesse. He's in a cruiser." Andrewski told the man that he was not in trouble but that he needed to come out so they could execute the search warrant. Gaiser did not sense the person to be overly violent and made the assessment that he was a drunken man who was refusing to cooperate with the execution of the search warrant. Gaiser did not hear the man make any threats. When Gaiser asked Andrewski why they would not leave the man inside the trailer, Andrewski told him that there was a second individual on the property who was potentially wanted and had not been located during the execution of the search warrant. Gaiser assumed that second individual was a man by the name of Cormier, an associate of Jesse Jarvis. Andrewski indicated that he could see the man in the camper and that he did not appear to be armed. Gaiser confirmed that observation several times with Andrewski.

Shortly thereafter, Julian approached Gaiser and asked if he had any experience with a "flashbang." In the course of that conversation, Gaiser mentioned that he had a Taser. He mentioned that because it appeared to him that he was the only officer on scene with a Taser, other than Trooper Lee who was handling his canine. Julian asked Gaiser if he would be willing to enter the camper with his Taser following the detonation of the "flashbang." Gaiser agreed given his assessment, at that time, that this was a non-deadly threat from the person inside the camper. The goal was to enter the camper and arrest the person inside for obstructing the execution of a search warrant. The plan was for Julian to enter directly behind Gaiser with his weapon drawn. Gaiser inquired if the "flashbang" was smokeless and was assured that it was. There was a concern expressed that they had to get him out of the camper before nightfall. They wanted to be able to see inside the camper when they entered. Gaiser took off the air cartridge from his Taser and spark tested it. It functioned properly. They prepared to enter the camper. At that point, approximately ten minutes had passed from the time Jesse Jarvis was taken into custody.

Once the "flashbang" went off, Gaiser entered immediately and looked to his left down the hallway of the camper. He saw what looked like a barricade, which immediately raised his suspicions. Gaiser saw Anthony Jarvis hiding behind the barricade and saw Jarvis pivot toward him. It appeared to Gaiser that Jarvis had been waiting for him to enter. He heard Jarvis scream, not words but more like a "war cry." Almost immediately, Gaiser saw muzzle flash and in that same instant discharged his Taser. He felt something pass by him, which he assumed to be a bullet that came from the direction of where Jarvis was standing. He got hit in the leg and fell down on the floor of the camper. He was aware that his leg was incapacitated. He positioned himself in the corner of the camper behind a counter in an effort to take cover. He realized that bullets were exploding around him. He felt a stinging sensation to his right hand. He saw chunks of the floor tile flying all around him. He dropped the Taser and drew his weapon to return fire, then reloaded and fired another four to five rounds. He saw Julian in the door but did not know if Julian fired his weapon. When the gunfire directed at him stopped, Gaiser holstered his weapon and looked out the door at Andrewski. He yelled at Andrewski that he had been hit in the leg and then managed to move his legs toward the

door so that Andrews could reach in, grab his legs, pull him out, throw him over his shoulder and run him up toward the street.

Gaiser suffered three bullet wounds, two serious injuries to his leg and one to the pinky finger of his right hand. The treating physician surmised that the wounds to his leg were caused by a nine-millimeter or forty caliber weapon.

## *B. CIVILIAN WITNESSES*

### **Desiree Wright**

Desiree Wright was a former girlfriend of Jesse Jarvis. She had been in regular contact with him in the days leading up to the incident on July 26, 2008. She knew that Jarvis was the leader of a group called Brothers of White Warriors [BOWW], a white supremacist group. She knew that Jarvis was at her aunt Lorraine Farrell's residence, at 60 Summer Street in Charlestown, and that Jarvis's father, Anthony, resided on the property in a camper.

On July 26, 2008, Wright had just returned from the grocery store when the police arrested her. She knew Daniel Allain was on the property, that he was a member of BOWW, and that he had been in the camper most of that day with Anthony Jarvis playing chess and smoking marijuana. She knew Jesse Jarvis was upstairs in the main residence. The night before, she had seen Anthony Jarvis in his camper with a 9mm handgun between his legs. She had never seen Jesse Jarvis with a gun. She also knew that both Jesse and Anthony Jarvis had been listening to a police scanner during that day.

### **Lorraine Farrell**

Lorraine Farrell resides at 60 Summer Street, Charlestown with her husband and children. She had known Anthony Jarvis since she was 9 years old. Jarvis had been paying rent to keep his camper on that property for approximately five years.

On July 26, 2008, she was outside her home holding an infant when the SOU team pulled up and ordered everyone to get on the ground. She was led away from the residence while officers questioned her about the whereabouts of Jesse Jarvis. She told them Jarvis was inside the main residence. Farrell also told them that her husband kept a firearm inside their home.

After being led away from the house, she could hear Anthony Jarvis yelling at the police. In her opinion, Jarvis had "snapped." In an interview after the incident, she told investigators that she had noticed that he had been drinking more than usual over the days prior to the incident, that he was acting very odd, moody and depressed. She knew Jarvis to be a person who "loved guns." In the past, she had heard Jarvis state that he would not go back to jail and would commit "suicide by cop." On July 26, 2008, Farrell remembered someone telling police officers that Jarvis had a gun in his camper. She also remembered the police inquiring about Jarvis's cell phone number, and someone

provided that to the police. She believed that the police tried to call Jarvis but that he did not answer his phone. Farrell could not see the camper from where she was standing. She did hear a loud bang and saw a bright red flash. She did not see any officers fire a weapon.

### **Brian Farrell**

Brian Farrell is married to Lorraine Farrell. When the SOU team came to his residence, he was not there. He had gone fishing and did not return until the incident was over. On prior occasions, Farrell had been in Anthony Jarvis's camper. He never saw Anthony Jarvis with firearms. In his opinion, Jarvis liked to drink alcohol.

### **Erin Farrell**

Erin Farrell is the 18-year-old daughter of Lorraine and Brian. On July 26, 2008, when she returned home from grocery shopping, she saw police officers in her yard. They kept her from entering the property. When an officer asked her where Jesse Jarvis was, she told him that Jarvis was upstairs in the main residence. She later saw Jarvis come out of the house after being talked out by an officer.

She then heard yelling or talking coming from the side yard and believed officers were trying to talk Anthony Jarvis out of his camper. She heard a loud gunshot, which she believed, at the time, was Jarvis firing the first shot. She did not have a clear view of the camper and did not see anyone fire a weapon.

On prior occasions, Farrell had been inside Anthony Jarvis's camper but did not see any firearms.

### **Patrick Farrell**

Patrick Farrell is the 15-year-old son of Lorraine and Brian. During this incident, he was fishing with his father. He had been inside Anthony Jarvis's camper a few times but never observed any firearms.

### **Pamela Wright**

Pamela Wright is the mother of Desiree Wright and the sister of Lorraine Farrell. On July 26, 2008, Wright was visiting her sister at her residence on Summer Street in Charlestown. She saw Jesse Jarvis in an upstairs bedroom of the residence. She also saw Anthony Jarvis, whom she had known for twenty years. That day, she observed Anthony Jarvis to be very intoxicated to the point that he could hardly walk. In the past, she heard Anthony Jarvis state that he carried a gun.

In the early evening, when she came back from the grocery store, she saw police at her sister's home and her daughter in handcuffs. She also saw Daniel Allain in handcuffs and heard officers yelling for Jesse Jarvis to come out of the residence. Once

Jesse Jarvis came out, he was arrested and transported away from the scene, along with Desiree Wright and Allain. Wright heard Anthony Jarvis screaming from inside his camper and the officers trying to talk Jarvis out of the camper. Jarvis was yelling that he did not want to come out.

The next thing Wright remembered seeing was a flash from inside the camper and police officers standing in the yard shooting. She remembered many shots being fired everywhere. When the gunfire stopped, she heard officers say that an officer had been shot and saw an officer being carried to a cruiser.

### **Jennifer Kelsey and Joseph Marquay**

Kelsey and Marquay are neighbors of the residents at 60 Summer Street in Charlestown. On July 26, 2008, they were both sleeping when they heard a loud concussion. They heard gunfire and someone yell "he's been shot." Then, they saw a state trooper being carried out of their neighbors' yard.

### **Philip and Holly Shaw**

The Shaws are neighbors of the residents at 60 Summer Street in Charlestown. On July 26, 2008, they saw police cruisers and the SOU van in front of their neighbors' house. They also saw an officer leading a female into a cruiser. Later, they heard an explosion or what sounded like a large weapon being fired, followed by twelve shots in rapid succession. There was a short pause, followed by five or six more shots, followed by another short pause, and then another volley of five or six shots. Holly Shaw reported seeing a state trooper being escorted to a cruiser.

### **Teena Hentschel**

Hentschel is a neighbor to the residents at 60 Summer Street in Charlestown. She remembered that the shooting started one half hour after the police arrived. She heard the officers yelling for Jesse and Neilson. She saw officers standing nearby the residence with pistols drawn. Other officers were armed with shotguns. She heard what sounded like one shotgun blast, followed by a numerous gunshots. She did not see anyone fire a weapon.

### **Albert Harris**

Harris is a neighbor to the residents at 60 Summer Street in Charlestown. On July 26, 2008, he observed the police arrive and take positions near the residence. He saw officers escort two females and a male off the property. He heard police officers yelling such things as "show me your hands." He did not hear or see any gunfire.

**Tina Marie Gaouette**

Gaouette is the girlfriend of Albert Harris. She saw police officers charge the house at 60 Summer Street and then bring out a female. She heard officers yelling for someone named Jesse and saw the police escort a male off the property. A little later, Gaouette stated that the police were trying to get another male out of the house. She heard gunshots but did not see any officers fire their weapons.

**Carrie Bendickson**

Bendickson is a neighbor to the residents at 60 Summer Street in Charlestown. She reported seeing the arrival of the SOU van and police cruisers. She learned that there was a person "held up in a trailer." She did not see or hear any gunfire.

**Pamela and Ira Clarke**

The Clarkes are neighbors to the residents at 60 Summer Street in Charlestown. They saw the SOU van pull up and officers dressed in tactical gear. They heard the officers yelling for Jesse to come out and heard a comment that "Jesse's dad" was upset. They saw a male come out of the house with his hands up. They saw a female in handcuffs being escorted to a cruiser and a male subject being arrested.

A little later, they heard a loud blast followed in quick succession by approximately eight gunshots. They then heard officers yelling for "Tony" to come out. They saw an officer who had been shot being carried to a cruiser. They did not see any officers enter the camper or see anyone discharge a firearm.

**Paramedic Gerard Beaudry**

Beaudry was on duty the evening of July 26, 2008, and responded to 60 Summer Street in Charlestown for a report that a subject had been shot. The officers wanted Beaudry to confirm that Anthony Jarvis was dead. Beaudry entered the camper on two separate occasions. He found Jarvis lying in the back of the camper on what appeared to be a bench. Beaudry felt for a carotid pulse. Finding none, he left the camper to retrieve a cardiac monitor and subsequently determined that Jarvis was dead. Beaudry was told that Jarvis had been shot approximately thirty to forty-five minutes before he arrived at the scene at 8:55 p.m.

**III. AUTOPSY REPORT**

Deputy Chief Medical Examiner Jennie V. Duval, M.D. conducted the autopsy on July 28, 2008. Dr. Duval's report identified fifteen gunshot wounds on Anthony Jarvis's body, eleven of which were perforating or penetrating wounds and four of which were graze wounds. There were seven gunshot wounds of the torso, two gunshot wounds of the right upper extremity, two gunshot wounds of the left upper extremity, three gunshot wounds of the right lower extremity and one gunshot wound of the left upper posterior



thigh. Dr. Duval ruled the cause of death was multiple gunshot wounds sustained during an armed confrontation with police and the manner of death was homicide, meaning that it was caused by another person and not self-inflicted. Jarvis's blood alcohol concentration (BAC) at the time of death was 0.324 %. A Taser dart was recovered from Jarvis's right lower pant leg.

#### **IV. PHYSICAL EVIDENCE**

Major Crime investigators recovered evidence from inside the camper, including a Ruger pistol, four loaded magazines, twelve Winchester .45 casings, eight Winchester 9mm casings, two Winchester 9mm cartridges, a Taser with deployed cartridge, and various lead fragments.

The State Police Forensic Laboratory examined Jarvis's 9mm Ruger semi-automatic pistol with laser sight, Gaiser's Smith and Wesson .45 semiautomatic pistol and Julian's 5.56 mm caliber semiautomatic rifle. The 9mm Ruger was test fired in the lab. During those tests, the firearm was unable to extract discharged cartridge cases from the chamber due to damage done to the extractor. The lab determined that the firearm was not susceptible to an accidental discharge due to jar-off. The .45 semiautomatic pistol and the rifle were also test fired and both were found to function normally. Those firearms were likewise not susceptible to an accidental discharge due to jar-off. Bullets found at the scene were determined to have been fired from the respective weapons. Some of the bullets fired from Gaiser's weapon were recovered on Jarvis's body during the autopsy.

Gaiser's medical records indicate that he was treated for two gunshots wounds to the thigh and one wound to his finger. According to the medical staff, a 9mm weapon caused the wounds to his thigh.

#### **V. LEGAL ANALYSIS**

##### **A. Entry into Anthony Jarvis's Camper**

The Attorney General's Office conducts an investigation whenever a law enforcement officer uses deadly force in the course of his duties, which results in injury to another. The purpose of the investigation is limited to determining whether the officers' use of deadly force was justified under RSA 627:5.

By the time the decision was made to enter Anthony Jarvis's camper, Jesse Jarvis and Desiree Wright, the subjects of the search warrant, had been located, taken into custody and transported away from the scene. There were differing accounts among the law enforcement members present as to the specific legal basis and purpose for entry into Anthony Jarvis's camper. It appears that only some of the police officers became privy to the information that Anthony Jarvis had a gun in the trailer. Two of the principle people, Chief Julian and Trooper Gaiser, claimed they were unaware of that fact. Other officers stated that Julian and Gaiser were told about the gun. Whether Julian and Gaiser

knew that Jarvis was armed with a gun does not effect the legal analysis of whether their actions were justified. Neither Julian nor Gaiser entered the camper with the intent to use deadly force. It was not until they were faced with Jarvis's deadly force that they acted in self-defense.

County Attorney Hathaway understood that law enforcement needed an independent basis to enter that camper once Jesse Jarvis and Wright were in custody. He made the determination that law enforcement officers could enter without a warrant based on exigent circumstances. Those circumstances included Anthony Jarvis's refusal to exit the camper and cooperate with the earlier search warrant and the fact that Jarvis was angry and belligerent, and possibly armed. Hathaway concluded that law enforcement could not just leave the scene without defusing Jarvis and that there was a legal basis for entering the camper and apprehending Jarvis. That determination was communicated in various ways to the officers at the scene.

Julian approached Wilmot and Gaiser to obtain participation in the plan to remove Jarvis from the camper. Gaiser agreed to enter the camper with his Taser drawn. This was based on his assessment that Andrews did not observe Jarvis to be armed and the threat level appeared minimal given that Gaiser saw a number of officers in the yard, close to the camper and out in the open.

Some of the law enforcement officers believed there was a search warrant for the camper, while others believed there was exigency to enter the camper based on the information that Anthony Jarvis may be a felon in possession of a firearm and based on his behavior at the scene. Nonetheless, all officers reasonably believed that they had the lawful right to be present and enter the camper. It is clear that Anthony Jarvis was informed of the police presence and their intent to enter the camper. Sergeant Andrews told Anthony Jarvis that they had a warrant and asked Jarvis to come out of the camper so he could show Jarvis the warrant. Even if Anthony Jarvis believed that the officers had no authority to enter, he was not legally justified in using deadly force against Trooper Gaiser. The law provides that when an entry is unlawful or an arrest is made without a legal basis, the person must nonetheless acquiesce to the show of police authority and cannot commit additional crimes against the police. *See* RSA 642:2 (a person is guilty of a misdemeanor when he knowingly or purposely physically interferes with a person recognized to be a law enforcement official seeking to effect an arrest or detention of the person or another regardless of the legal basis for the arrest); *State v. Panarello*, 157 N.H. 204 (2008) (declining to hold that after an unlawful entry, evidence of subsequent crimes against police officers must be suppressed as such a rule would produce intolerable results such as a person who correctly believed that his home had been unlawfully entered by the police could respond with unlimited force and, under the exclusionary rule, could be effectively immunized from criminal responsibility for any actions taken after that entry.)

### **B. Use of Non-deadly Force by Law Enforcement, RSA 627:5**

RSA 627:5, I, provides that non-deadly force is appropriate to effect an arrest “unless [the officer] knows the arrest is illegal.” RSA 627:5, VI, also provides that “a reasonable belief that another has committed an offense means such belief in facts or circumstances which, if true, would in law constitute an offense by such person.” Here, Julian and Gaiser began this endeavor with non-deadly force to effect an arrest. Neither believed that the arrest was illegal. The decision to arrest came from County Attorney Hathaway, who had authority to make that decision. Further, County Attorney Hathaway had a reasonable basis to conclude that there was probable cause that Jarvis had committed an offense or offenses.

### **C. Use of Deadly Force by Law Enforcement, RSA 627:5**

RSA 627:5, II (a), provides that a law enforcement officer is justified in using deadly force only when he reasonably believes such force is necessary to defend himself or a third person from what he reasonably believes is the imminent use of deadly force. “Deadly force” means any assault which the person commits with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily injury. Purposely firing a firearm capable of causing serious bodily injury or death in the direction of another person constitutes deadly force. RSA 627:9, II.

Based on the events that transpired in the camper, the actions of both Trooper Gaiser and Chief Julian were justified under the law. Gaiser entered the camper after a non-lethal diversionary device was deployed to distract Anthony Jarvis. Gaiser attempted to use his Taser to immobilize Anthony Jarvis, so that Jarvis could be removed from the camper. However, despite Gaiser’s effort to Taser him, Anthony Jarvis immediately fired at Gaiser and continued to fire multiple rounds at Gaiser. In doing so, Jarvis acted consistent with the threats he made toward other law enforcement officers before these officers entered and with the statements he made to Lorraine Farrell about not going back to jail and committing “suicide by cop.” After Jarvis fired at him, and after being struck by bullets in his leg and hand, Gaiser had a reasonable belief that deadly force was being used against him and was therefore legally justified in defending himself by firing his gun. Julian fired his weapon only after hearing Gaiser yell that he had been shot and hearing continued gunfire. At that point, Julian was legally justified in believing that it was necessary to use deadly force to defend Gaiser and others in close proximity to the camper from the continued use of deadly force.

Based on all of the facts and the analysis above, the circumstances confronting Trooper Gaiser and Chief Julian at the time they fired their weapons at Anthony Jarvis justified their use of deadly force.

## **VI. Referral to Police Standards and Training Council**

The entry into the camper, including the process by which the decision to enter was made and the tactics used throughout the incident, warranted further review.

However, such review was outside the limited scope of the Attorney General's investigation, which focused only whether the officers' use of deadly force was justified. Accordingly, the Attorney General referred this matter to the Police Standards and Training Council. The Police Standards and Training Council agreed to conduct a thorough review of the current training and model protocols made available for such teams, and to incorporate into future training for special operations units any additional training they determine to be necessary.